



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/24/2976**

**Re: Property at Drum of Carron Farmhouse, Aberlour, Banffshire, AB38 9NT (“the Property”)**

**Parties:**

**Mrs Katie Smith and Mr Gary Smith, residing together at Baldyquash, Meikle Wartle, Inverurie, AB51 5BR (“the Applicants”)**

**Mr Michael Woodcock, trading as Carron Bridge Estate, The Estate Office, Inkersall Farm, Inkersall Lane, Bilsthorpe, Newark, Nottinghamshire, NG22 8TL (“the Respondent”)**

**Tribunal Members:**

**Andrew Cowan (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to refuse the Application.**

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**Background**

1. By an Application dated 14<sup>th</sup> June 2024 (“the Application”), the Applicants sought an order for payment of £109237 from the Respondent. The Applicants claim that they incurred costs in that sum whilst carrying out renovation and improvement works to the Property which they leased from the Respondent under a Private Residential Tenancy between the parties dated 29<sup>th</sup> April 2022. The Applicants claim that they are entitled to be repaid this sum by the Respondent. The Application was submitted to the Tribunal under rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules and Procedure 2017 (“the procedure rules”).

2. The Application includes many copy invoices in relation to various sums which the Applicants claim they spent on the Property during renovation and improvement works at the Property. The Applicants have also lodged more than 300 photographs of the works that they carried out at the Property. The Application includes a copy of a Private Residential Tenancy in relation to the three bedroom farmhouse known as Drum of Carron, Aberlour, Banffshire (“the Property”) which the Respondent (as owner and Landlord) and the Applicants (as Tenants) executed in on 28<sup>th</sup> April 2022. The Applicants have also lodged a copy of a lease, dated 1<sup>st</sup> and 9<sup>th</sup> May 2022, between the parties in relation to a steading adjacent to the Property. The Applicants have further lodged a copy of a grazing agreement between the parties in relation to 14 acres of grassland forming part of Carron Bridge Estate, dated 9<sup>th</sup> May 2022.
3. The Applicants have included with the Application (along with further papers submitted after the Application was first lodged with the Tribunal) copy correspondence between them and the Respondent together with a written statement dated 7<sup>th</sup> August 2024, entitled “expenses and compensation claim” in which the Applicants seek to summarise the costs incurred by them in carrying out works to renovate and improve the Property.
4. The Respondent has lodged with the Tribunal a written submission (received by the Tribunal by email dated 27 February 2025). In that written submission the Respondent submits that, whilst the Respondent gave permission for certain works to be carried out by the Applicants at the Property, no contribution towards the cost of these alterations or improvements was requested by the Applicants and no offer of contribution towards the costs of any alterations or improvements was made by the Respondent.
5. A copy of the Application, along with a letter from the Tribunal giving details of a proposed Case Management Discussion, was served upon both the Applicant and the Respondents,

#### The Case Management Discussion (“CMD”)

6. A CMD took place by telephone conference on 28<sup>th</sup> February 2025.
7. Both the Applicants joined the CMD call.
8. The Respondent joined the conference call. He was represented on the CMD call by his son, Mr James Woodcock.
9. At the CMD the Tribunal asked questions of parties to clarify the basis of the Applicants claim and the issues in dispute between the parties.
  - a. The Tribunal noted that the papers lodged by the Applicants included a residential tenancy between the parties in relation to the Property, together with other leases in relation to associated grazing rights and the

lease of a steading, The Tribunal explained to the Applicants that the Tribunal only had jurisdiction to consider civil proceedings arising from a residential tenancy. Any costs incurred by the Applicants in relation to the grazing lease or the lease of the steading were accordingly out with the jurisdiction of the Tribunal. The Applicants indicated that certain of the sums which they claimed in the Application did relate to work they had carried out at the steading or on land leased for grazing purposes. They accepted that they any such costs (being costs not incurred in relation to a residential tenancy) fell out with the jurisdiction of the Tribunal and that the Application would require to be amended accordingly.

- b. The Tribunal noted that the Applicants had made repeated reference to the Respondent's failure to comply with the duty to ensure that the Property met the Repairing Standard. They complain in the Application that the Respondent had failed to carry out any repairs to the Property during the term of the tenancy. The Tribunal explained to the Applicants that the Application they had raised was for civil proceedings associated with their tenancy. The Respondents had now vacated the subjects of that tenancy. Whilst issues of disrepair might be relevant to the Application (in so far as they related to any costs which the Applicant sought to recover), a claim that the Property did not meet the Repairing Standard was not relevant to the specific terms of the Application.
- c. Both Applicants had been sequestrated on 22 April 2024. The Tribunal had requested that both Applicants confirm whether or not their Trustee in Bankruptcy wished to apply to be party to the Application proceedings. The Applicants had not replied to that specific question. At the CMD the Applicants indicated that their Trustee in Bankruptcy was aware of the Application and had not objected to the raising of the Application after the date upon which they were sequestrated. The Tribunal confirmed to the Applicants that they would require to lodge documentation with the Tribunal which confirmed the position of the Applicants' Trustee in Bankruptcy in relation to the Application.
- d. The Tribunal sought to clarify the legal basis upon which the Applicants claimed payment from the Respondent. The Applicants explained to the Tribunal that they had leased the Property from the Landlord as they intended to operate a dog breeding business from the Property (and associated land). The Applicants had understood that the Respondent had agreed to meet their costs in renovating and upgrading the Property. They had been told that, once they had taken occupation of the Property under a tenancy agreement, the Respondent would have further discussions with them about the costs of proposed renovation and upgrade works. The Applicants proceeded to incur costs in carrying out improvement works at the Property. They trusted that the Respondent would reimburse them for the costs which they incurred. The Applicants conceded at the CMD that there was no specific agreement with the Respondent as to what works they were authorised to carry out, the specification of any such works or the agreed budget for such works. The Respondent highlighted that the tenancy agreement between the parties in relation to the Property specifically required the Applicants not to make alterations to the Property without the express written consent

of the Respondent. The Respondent had given written authority to the Applicants to carry out certain limited alterations and improvements, but the Respondent had not made any offer of contribution towards the costs of such works.

At the CMD the Tribunal explained to the Applicants that they would require to amend their Application to explain the contractual basis (if any) upon which they intended to make their claim for payment. The Tribunal anticipated that this would include an explanation of the terms of any such contract together with a specification of any agreed works which had been agreed between the parties. The Applicants confirmed to the Tribunal at the CMD that there had not been agreement as to such specific contract terms between the parties. The Applicants accepted that, in the absence of specific contract terms, they were unlikely to succeed in the Application.

At the CMD the Tribunal canvassed with the Applicants as to whether they would wish to seek an adjournment of the CMD to allow them an opportunity to review the terms of their Application (and, if necessary to seek to amend their Application) and to seek advice in relation to the contractual position between the parties. The Applicants confirmed to the Tribunal that they did not wish to seek such an adjournment and that they did not wish to seek an opportunity to take advice in relation to matters. They indicated to the Tribunal that they accepted that they could not prove a contract or other legal basis to support the Application.

### **Decision**

10. The Tribunal has determined to refuse the Application.

### **Reasons for Decision**

11. The Application, as considered at the CMD, does not set out a clear basis in law for the claim made. The Application is not specific as to the terms of any contractual agreement between the parties in terms of which the Applicants seek to argue that they are due the sums claimed in the Application. The Application does not give fair notice to the Respondent of any specific contractual terms upon which the Applicants base their claim in the Application. The Applicants have been given an opportunity to seek to amend the Application to further specify their claim. The Applicants do not wish to avail themselves of that opportunity. In the circumstances the Tribunal exercised the power within rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD. The Tribunal consider that the Application, as submitted to the Tribunal, is not specific in its terms and as currently presented, has no reasonable prospect of success and determined to refuse the Application.

## Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

# Andrew Cowan

Andrew Cowan

5<sup>th</sup> March 2025

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Legal Member/Chair

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Date